

VZCZCXYZ0010  
RR RUEHWEB

DE RUEHBO #5444/01 2072122  
ZNY CCCCC ZZH  
R 262122Z JUL 07  
FM AMEMBASSY BOGOTA  
TO RUEHC/SECSTATE WASHDC 7630  
INFO RUEHCV/AMEMBASSY CARACAS 9207  
RUEHLP/AMEMBASSY LA PAZ JUL LIMA 5282  
RUEHZP/AMEMBASSY PANAMA 0484  
RUEHQT/AMEMBASSY QUITO 5882  
RUEHGL/AMCONSUL GUAYAQUIL 4029  
RUEAIIA/CIA WASHDC  
RUEKJCS/SECDEF WASHDC

C O N F I D E N T I A L BOGOTA 005444

SIPDIS

SIPDIS

E.O. 12958: DECL: 07/26/2017  
TAGS: [PGOV](#) [PREL](#) [ECON](#) [PHUM](#) [SOCI](#) [CO](#)  
SUBJECT: CONGRESS PASSES RURAL DEVELOPMENT LAW WITH  
PROTECTIONS FOR VULNERABLE GROUPS

REF: A. BOGOTA 32  
[1](#)B. BOGOTA 4786  
[1](#)C. BOGOTA 4825

Classified By: Political Counselor John S. Creamer.  
Reason: 1.4 (b,d)

-----  
Summary  
-----

[1](#)1. (C) On June 15, Colombia's congress passed a rural development law to increase rural productivity, harmonize existing laws, and reform INCODER, Colombia's rural land development agency. Concerns of human rights, Afro-Colombian and indigenous groups were addressed in the bill, and INCODER will have greater transparency and less authority. Still, complaints from about the bill persist. Implementing regulations are not in place and agencies with new responsibilities will need more resources to succeed. End Summary

-----  
Background  
-----

[1](#)2. (U) In July, 2006 the Colombian Congress began debate on a bill to promote productive land use, harmonize existing land laws and reform the Instituto Colombiano de Desarrollo Rural (INCODER) (ref A). Legislator Pedro Ramirez, who sponsored the bill, said it will make the rural economy "more productive and competitive to cope with the growing demands of globalization." Lorena Garnica, a special advisor to the Ministry of Agriculture and Rural Development (MinAg), agreed that modernizing the rural economy and boosting rural productivity were the primary goals. Garnica said the main instrument to achieve this will be giving the GOC the right to use eminent domain to purchase economically unproductive land to put to more productive uses.

[1](#)3. (C) In early 2007, the bill was criticized by human rights, Afro-Colombian, and indigenous groups who argued the bill could be used to hurt vulnerable groups. They claimed the bill might permit legalization of some ex-paramilitary land seizures by reducing the time needed to acquire legal ownership through "adverse possession." This argument had political impact, but was flawed because the bill only consolidated existing adverse possession laws. The Colombian Commission of Jurists, which actively opposed the bill, privately told us the argument was legally weak.

¶4. (U) In April President Uribe publicly floated the idea getting rid of INCODER in response to widespread accusations of corruption within the organization, including accusations that high-ranking officials were linked to ex-paramilitaries and involved in land-for-votes schemes. As a result, the bill was substantially amended and passed by congress on June 15 (ref B). It was transmitted to President Uribe in mid-July. Garnica anticipates he will sign it into law in the next two weeks.

-----  
Complaints Persist Despite Protections for Vulnerable Groups  
-----

¶5. (U) Congress added a number of specific provisions protecting vulnerable groups to the law before passing it. Eminent domain based on lack of economic productivity cannot be exercised against land owned by previously displaced persons, small farmers, and indigenous or Afro-Colombian communities. Additionally, displaced persons will be able to challenge adverse possession decisions at anytime, instead of within the previous five year limit. It also makes it easier for displaced persons to register land claims.

¶6. (C) Indigenous groups, such as the Colombian National Indigenous Organization (ONIC), still object to the law. ONIC rejects the idea of modernizing the rural economy, complaining that the law is intended to "reorganize the country" to implement the U.S.-Colombia Trade Promotion Agreement. ONIC claims the law will "trample" on the rights of indigenous groups and "obliterate" their lands (resguardos). Garnica said these claims make no sense. She noted that the Constitution provides extraordinary protection

for resguardos, which cover almost a third of the country, by making them legally inalienable. In addition, the law specifically states that it does not modify or reduce the rights of indigenous and Afro-Colombian groups.

-----  
INCODER Reform  
-----

¶7. (U) The law makes INCODER more transparent, minimizes land market distortions, and moves some critical responsibilities to other agencies. Previously, INCODER had a virtual monopoly on developing rural projects: it designed projects, subsidized their development, and chose project developers. This monopoly reduced transparency, distorted land values, and facilitated corruption. Under the new law, objective criteria for projects will be developed by MinAg, projects will be publicly advertised, and developers will be chosen by an impartial group of outside experts. Embassy technical experts were invited to work with MinAg officials on the bill to increase INCODER's transparency and strengthen the role of the private sector in projects.

¶8. (U) Rodolfo Campo Soto, INCODER's general manager, said the biggest change for INCODER is that multiple government agencies will assume responsibility from INCODER for helping vulnerable groups with land related issues (ref C). Accion Social will be responsible for land issues for displaced persons and the Ministry of the Interior and Justice's Bureau of Ethnic Affairs will be responsible for land issues for ethnic minorities. Garnica said implementing the new system will be a "challenge," as responsible agencies will decide on solutions to land problems, and INCODER will then execute the solution.

-----  
Details and New Resources To Be Defined  
-----

¶9. (C) Some key aspects of the law are yet to be defined, and agencies with new responsibilities will need new resources to succeed. Regulations to be developed by the MinAg in the next year will, for example, determine how "economic productivity" is defined, what the criteria for

rural development projects are, how the outside experts who chose developers will be selected, and how responsibilities will be transferred from INCODER to other agencies. Luis Alfonso Hoyas, the head of Accion Social, said his agency lacks the capacity to implement the new law with its current resources. Pastor Murillo, the director of the Afro-Colombian office in the Ministry of the Interior and Justice, said taking responsibility for land issues will be "impossible" with his current staff of five. Both Hoyas and Murillo hope they will receive additional resources to implement the law, but neither was optimistic that their resource needs would be met in the short-term.

Drucker